UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

                        Plaintiff,   Case No. 3-:06-cr-177

HORTENCIA HUERTA,   District Judge Thomas M. Rose

                        Defendant.   Magistrate Judge Michael R. Merz

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ENTRY AND ORDER OVERRULING HUERTA'S OBJECTIONS (Doc. #496) TO THE MAGISTRATE'S REPORT AND RECOMMENDATIONS; ADOPTING THE MAGISTRATE'S REPORT AND RECOMMENDATIONS (Doc. #483) IN ITS ENTIRETY; DISMISSING HUERTA'S §2255 MOTION TO VACATE, SET ASIDE OR CORRECT HER SENTENCE WITH PREJUDICE AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS* AND ANY REQUESTED CERTIFICATE OF APPEALABILITY

This matter is now before the Court pursuant to Objections (doc. #496) filed by

Hortencia Huerta ("Huerta") to the Report and Recommendations issued on February 9, 2010, by

Magistrate Judge Michael R. Merz (doc. #483). The United States of America has not filed a

response to Huerta's Objections. The Objections are, therefore, ripe for decision.

The District Judge has reviewed the findings of Magistrate Judge Merz. The District

Judge has also made a de novo review of the record in this case pursuant to 28 U.S.C. § 636(b)

and Fed.R.Civ.P. 72(b). Upon consideration of the foregoing, the Court finds that the Objections

are not well-taken and they are hereby OVERRULED.

The Magistrate Judge's Report and Recommendations is ADOPTED in its entirety.

Huerta's Motion To Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. §2255 is

dismissed with prejudice because it was not filed before the statute of limitations ran. Finally, a

certificate of appealability will not issue and Huerta is denied leave to appeal *in forma pauperis*

because reasonable jurists would not disagree with this conclusion regarding Huerta's Motion.

DONE and **ORDERED** in Dayton, Ohio, this 17th day of March, 2010.

s/Thomas M. Rose

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THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Hortencia Huerta at her last address of record
Counsel of Record